

# Affirmation of Jason Habinsky

Exhibit

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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

PHILIP FEI, on behalf of himself and classes  
of those similarly situated,

Plaintiff,

v.

WESTLB AG,

Defendant.

Index No.: 07 Civ. 8785 (HB) (FM)

**AFFIDAVIT OF  
KENNETH BIGELOW**

STATE OF NEW YORK                     )  
  ) ss:  
COUNTY OF NEW YORK                )

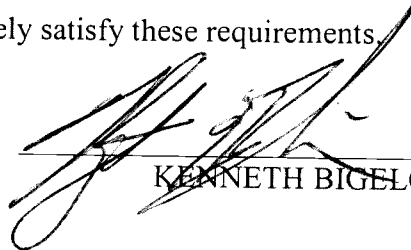
Kenneth Bigelow, being duly sworn, deposes and says:

1. I am the CIO of Americas at WestLB AG ("WestLB").
2. This affidavit is provided in opposition to Plaintiff's Motion for Conditional Certification and Court-Authorized Notice Pursuant to Section 216(b) of the FLSA.
3. I supervised Ho Nguyen while he was employed by WestLB.
4. Mr. Nguyen began employment with WestLB on or about July 6, 2004 as a Developer in the Trading IT Americas Department. Mr. Nguyen resigned effective February 4, 2005.
5. Mr. Nguyen was hired in part because of his MBA degree from the business school at University Chicago and his extensive experience as a programmer and analyst at several banks, including Fuji, CSFB and UBS.
6. Mr. Nguyen received an annual salary of \$120,000 and had a total compensation range of \$180,000.

7. Mr. Nguyen's position required experience in Fixed Income financial services and a bachelors degree in Computer Science, as well as strong interest rate product knowledge and strong familiarity with trading systems.

8. Mr. Nguyen worked on the trading floor. He was primarily responsible for creating and supporting computer analytical tools for use by the traders.

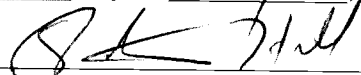
9. In order to create and support an analytical tool, Mr. Nguyen first would consult with the traders to ascertain what specifications and trading functions that the tool needed to fulfill. Then, Mr. Nguyen would be required to use his discretion and skill to design or support computer code that would perform these trading functions. In order to support a functioning analytical tool, Mr. Nguyen needed to understand the intricacies of the trading requirements and then had to use his own judgment and expertise to determine how to best create or modify computer code that would most effectively satisfy these requirements.



KENNETH BIGELOW

Sworn to before me this

21 day of May, 2008



Notary Public

**PATRICIA HILL**  
**Notary Public, State of New York**  
**No. 01HI6037407**  
**Qualified in Kings County**  
**Commission Expires March 20, 2010**